IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

AMERICAN WASTE MANAGEMENT AND RECYCLING, LLC.

Plaintiff,

v.

CEMEX PUERTO RICO; CANOPY ECOTERRA, XYZ INSURANCE COMPANIES.

Defendants.

CIVIL NO.: 07- 1658 (JAF)

BREACH OF CONTRACT; COLLECTION OF MONIES; and DAMAGES.

JURY TRIAL DEMANDED

MOTION IN COMPLIANCE WITH COURT ORDER

TO THE HONORABLE COURT:

NOW APPEARS Plaintiff **AMERICAN WASTE MANAGEMENT AND RECYCLING, LLC ("AWMR") ,** and through the undersigned attorneys, respectfully **STATES, ALLEGES** and **REQUESTS** as follows:

On Friday, October 5, 2007, a hearing was held before this Honorable Court. As a result thereof, the Court issued an Order at docket No. 60, which, among others, ordered Plaintiff AWMR to provide a list of the equipment currently at the site and to file it with the court by the afternoon of October 8, 2007, which AWMR complied with at docket No. 62. It also ordered it to make certain that equipment located at the CEMEX site as removed by persons or entities legally authorized to do so.

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AWMR now further informs this Honorable Court that it has removed all of the equipment from the CEMEX site, both equipment that belonged to it as well as leased equipment. As of today, only AWMR's office trailer remains, which must be removed with special equipment because of its damaged chassis; arrangements have been made to remove it within the next two (2) days, and CEMEX has so been notified.

The second part of the Court's order called for Ecoterra to remove the contested metal to a neutral storage site and for AWMR and Ecoterra to split the storage cost. AWMR cannot comply with that order, because Ecoterra has not removed the metal in question.

An inspection took place on Wednesday October 10, 2007, where all parties were present and photographs and video of the site and the equipment were taken. During that inspection, counsel for Ecoterra informed the undersigned and counsel for CEMEX that, in spite of agreeing thereto, his client did not have the means to comply with the Court's Order of October 5, to wit: to pay for the removal of the eight (8) containers at the site loaded with metal, and half of the cost of storage of the metal at a neutral site.

After several suggestions were made and discussed with our client, AWMR presented the following proposal to counsel for Ecoterra on Friday, October 12, 2007: AWMR would be willing to remove all the metal out of the site at its expense and to use as it sees fit (in other words, to dispose of it), and to post a bond for the corresponding value of the weighed metal according to the terms of the contract between the parties; that is to say, the metal inside the containers and the metal currently lying on the ground at the CEMEX site would be weighed before it left the premises and the corresponding amount per the terms of the contract would be deposited with the Court. This would also effectively dispose of the bond issue which Defendants have brought before the Court, an obligation which AWMR has always been willing to comply with, within reasonable parameters. *See docket No. 4, Motion Requesting TRO.*

AWMR considered this a reasonable proposal, in light of the fact that Defendant Ecoterra was unable to comply with the Order as agreed upon, and that AWMR would be further complying with the terms of the contract it signed with Ecoterra. *See Exhibit 1*, e-mail to Antonio Valiente of October 12, 2007. As a result thereof, AWMR has been unable to comply with the remainder of the Court's October 5th Order. Furthermore, as of the filing of this motion, the undersigned has not received a response from Ecoterra regarding its proposal to resolve this situation. At the time this issue was discussed between counsel, CEMEX indicated that its sole interest was that the metal be removed from its premises.

In light of this situation, AWMR respectfully requests that this Honorable Court **NOTE** AWMR's removal of the machinery and equipment from the CEMEX premises as ordered, and of AWMR's inability to comply with the remainder of the Order due to Ecoterra's failure to remove the metal as ordered.

WHEREFORE, Plaintiffs respectfully request that the Honorable Court **NOTE** AWMR's partial compliance with its Order and the reasons therefor, and that it issue any further relief it deem just and proper under the law.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 15th day of October, 2007.

CERTIFICATION: I hereby certify that on this day, the present motion was filed the Court's CM/ECF system, which will notify all counsel of record in this case.

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